

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JAMES MCGIBNEY, an individual; and
VIA VIEW, INC., a corporation.

Plaintiffs,

v.

CASE NO. 5:14-cv-01059-BLF

THOMAS RETZLAFF, an individual;
NEAL RAUHAUSER, an individual;
LANE LIPTON, an individual;
and DOES 1-5, individuals whose true
names are not known,
Defendants.

DEFENDANT RETZLAFF'S SECOND STATEMENT OF RECENT DECISION
[N.D. CAL. LR 7-3(D)(2)]

Pursuant to Local Rule 7-3(d)(2), defendant Thomas Retzlaff respectfully submits this Statement of Recent Decision calling the Court's attention to some actions that have taken place in concurrent litigation involving the parties and their attorneys in Texas.

1. As outlined in various defense motions, in addition to this case here, plaintiffs have previously filed a SLAPP lawsuit against all of the defendants in this federal case in Fort Worth, Texas, that was the subject of a recent appellate court ruling. See Retzlaff's First Statement of Recent Decision, ECF 153. Plaintiffs' Ventura, CA, attorney Jason

(Jay) Leiderman joined Beaumont, TX, attorney John S. Morgan, as co-author of the pleadings in the now-dismissed Cause No. 067-270669-14, *McGibney v. Retzlaff*, in the 67th District Court of Tarrant County, Texas. See ECF 153-3, pg. 14. The claims and defendants in that Texas lawsuit are identical to the case at hand here. In each of these cases plaintiffs have alleged that Retzlaff is the author of or somehow controls a blog that is critical of James McGibney and his revenge pornography / blackmail business activities called *ViaViewFiles* or *BV Files* that is hosted on Wordpress.com. See, e.g., P's TX lawsuit at ¶15 (ECF 153-3, pg. 4) and P's SAC at 317 (ECF 125, pg. 45).

2. What is new and is important is that John Morgan, the attorney for plaintiffs, is now making Judicial Admissions / Claims in yet another SLAPP lawsuit (that he just filed in Texas **as a pro se plaintiff no less!!**) alleging that this *BV Files* blog is actually run and controlled by Houston, Texas attorneys Cheryl Johnson-Todd and Jeffery Dorrell!! See Plaintiff Morgan's Second Amended Petition at ¶ 12 attached as Exhibit 1. (“Todd and Dorrell are using these internet defamation web pages, which only themselves create and read, to ... seek revocation of Morgan's law license.”) According to Morgan's latest allegations, filed on February 25, 2015, Dorrell and Johnson-Todd are waging an “internet defamation campaign” against Morgan “in combination with Mr. Thomas Retzlaff (and also with the participation of Neal Rauhauser).” *Id.*

3. In the instant lawsuit, Morgan has claimed that Retzlaff is acting in participation with various Texas attorneys – including Mark Sparks, Joe Fisher II, Brian Sutton, Sheryl Johnson-Todd, Jeffrey Dorrell, and former Jefferson County District Judge Layne Walker – to “intentionally humiliate” Morgan and “cause Morgan emotional distress.” See Exhibit 1, Morgan's Second Amended Petition, at ¶¶ 7, 12, 17.

4. This newest SLAPP lawsuit filed by plaintiffs' counsel is in regards to the fact that plaintiffs' Texas lawyer, **John S. Morgan**, was recently **convicted of child abuse** and in **filing false police reports** against his ex-wife, who is an Assistant District Attorney in Beaumont, Texas, and Morgan was **ordered to pay nearly \$250,000** in attorney's fees to his ex-wife's attorney (Ms. Johnson-Todd) as a result of Morgan's **failed scheme to steal custody** of his three children from his ex-wife by trying to get his then 13-year old daughter to make a **false sexual abuse allegations** against her mother, which is all spelled out in great detail in a very recent decision from the Texas 9th Court of Appeals. See Exhibit 2 – *In The Interest Of A.K.M., J.D.M., AND D.M.M.*, No. 09-12-00464-CV, Court of Appeals of Texas, Ninth District, Beaumont, 2014 Tex. App. LEXIS 2230, December 30, 2013, Submitted, February 27, 2014, Opinion Delivered, Petition for review denied by *In the Interest of A.K.M.*, 2014 Tex. LEXIS 439 (Tex., May 30, 2014) Writ of mandamus denied *In re K.W.M.*, 2014 Tex. App. LEXIS 11186 (Tex. App. Beaumont, Oct. 9, 2014).

5. In the lead up to Morgan's attempt at seeking custody of the children, Morgan filed a false police report with the Beaumont, TX Police Department claiming that his Asst. DA ex-wife was stealing drugs out of the evidence locker at the District Attorney's Office and that she and her co-workers were using the drugs and selling the drugs. Morgan later signed an affidavit admitting that he had lied to the police and that the whole thing was made up. See Exhibit 3. He was later found guilty of the criminal offense of filing a false police report.

6. **So why is this important and why should this Court care?** It is important because it shows a clear pattern by the attorneys for the plaintiffs in making up false

allegations in lawsuits and then shifting the claims in different lawsuits to suit their present purposes. When they first filed these lawsuits, Morgan and Leiderman claimed (on behalf of their clients the plaintiffs) that it was Retzlaff and the co-defendants here who were running this blog. Now they are claiming that it is Houston attorneys Dorrell and Johnson-Todd who are actually running this blog. The Court should care because **this case is a waste of time** and was brought for clearly improper purposes by two **lunatic drug addicts** named **Jay Leiderman and John Morgan**, on behalf of a guy, James McGibney, who posts the **intimate pictures of little girls** online and then who **blackmails them** out of their lunch monies in a **revenge porn scheme**, while at the same time McGibney is falsely claiming to be an *anti-bullying advocate who only wants to help people*. Oh, and that he also has super-secret US Marine Corps. computer security expertise that allows him to pluck names & IP addresses out of thin air so that he can identify specific people who tweet mean things about him. Seriously.

7. For the record, all allegations about who runs the *BV Files* blog are completely false and without any evidentiary support whatsoever. But since when has that ever stopped these clowns, eh? If you have any doubts, just ask Lane Lipton and her attorneys who were all wrongfully dragged into this here court from clear across the country based upon FAKE “evidence” from the plaintiffs and LIES by their lawyers. **When caught Leiderman and McGibney were forced to pay Lipton and her lawyers \$30,000 in compensation for their lies!**

8. And just FYI: **Leiderman is under current investigation by the California State Bar** for his actions in obtaining and setting up defamation websites in the name of Houston, TX attorney Jeffrey Dorrell, (who is also a close friend of Retzlaff’s). Retzlaff

has met and spoken with State Bar authorities twice in recent months and provided them with various documents from GoDaddy.com, the website host. This is crap Leiderman and McGibney pull all the time against other attorneys. See, e.g., Retzlaff's Motion to Appoint Limited-Scope Counsel, ECF 89. **Morgan is also under current investigation by the Texas State Bar** for his criminal activities (as described above), illegal substance abuse, and for using his law firm's Trust Fund Account to pay personal expenses.

9. These SLAPP suits and the recent histrionics of the attorneys for plaintiffs clearly show that these are all last minute attempts at trying to avoid over \$250,000 in attorney's fees and mandatory sanctions of up to \$1 million that is due in Texas for violating our state's anti-SLAPP laws. Morgan and McGibney are personally on the hook for the pending sanctions in Texas, and, as we already know, Leiderman is facing financial ruin and the loss of his home due to the fact that he obtained a \$250,000 home equity loan that was used to finance ViaView and these SLAPP suits. See Exhibit 1 to Retzlaff's Amended Anti-SLAPP Reply, ECF 108-1. Counsel and plaintiffs hoped all of these lawsuits would result in a financial windfall and lots of free publicity from *Rolling Stone* magazine and *Warner Brothers* television studios, just like what they did in previous lawsuits against Hunter Moore and other unfortunate victims of their lawfare.

10. As an aside, defendant would point to Leiderman's recent attempts at trying to have this defendant arrested and jailed for contempt of court for supposedly violating a restraining order in the San Jose SLAPP lawsuit. Leiderman came to this Court trying to get the Court to rescind defendant's permission for a telephone court appearance in this case, (ECF 150), which the Court rightfully denied, (ECF 152). In the Texas case, at the very same time all of this here stuff is going on, Morgan is trying to get Jeff Dorrell held

in contempt of court and jailed, too!

11. For anyone keeping score, Leiderman has alleged that Retzlaff is guilty of 114 violations, with a potential punishment at 5 days a piece, for a total of 570 days jail. Morgan has alleged that Dorrell is guilty of 22 violations, with punishment at 180 days a piece, for a total of 3,960 days (or apx. 11 years) in jail. Obviously, and clearly, these allegations are complete BS. **FYI:** Defendant would suggest that the Court take a look at Dorrell's recent interlocutory filing in the Texas 9th Court of Appeals in *Johnson-Todd v Morgan*, Case # 09-15-00073-CV, in which the court of appeals is conducting an emergency review of Morgan's actions in the trial court.

<http://www.search.txcourts.gov/Case.aspx?cn=09-15-00073-CV&coa=coa09>

12. For the Court's edification, Retzlaff has attached copies of Dorrell's law firm bio as well as his *Martindale-Hubble* listing. See Exhibits 4 and 5. Clearly, Dorrell is not a nut job who involves himself in ridiculous lawsuits with lunatic revenge porn/blackmail artists who use drugs. Can the same be said about Leiderman and Morgan?

13. If it would assist the Court, defendant would be pleased to file a short, supplemental brief explaining the effects of these various lawsuits and court decisions on defendant's several motions to dismiss.

Respectfully submitted,

/s/ Thomas Retzlaff
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Defendant, pro se

CERTIFICATE OF SERVICE

I certify that on March 1, 2015, a copy of this document was electronically filed on the CM/ECF system, which will automatically serve a Notice of Electronic Filing on the following attorney in charge for plaintiffs ViaView & James McGibney:

Jason Scott Leiderman, of 5740 Ralston Street Ste 300, Ventura, CA 93003, Email: Jay@Criminal-Lawyer.me.

I certify that Jay Leiderman is a registered CM/ECF user and that service will be accomplished by the CM/ECF system.

I certify that on March 1, 2015, a copy of this document was electronically filed on the CM/ECF system, which will automatically serve a Notice of Electronic Filing on the following attorney in charge for defendant Lane Lipton:

Clark Anthony Braunstein, of 11755 Wilshire Boulevard, Suite 2140, Los Angeles, CA 90025, Email: Clarkbraunstein@gmail.com.

I certify that Clark Anthony Braunstein is a registered CM/ECF user and that service will be accomplished by the CM/ECF system.

/s/ Thomas Retzlaff

Thomas Retzlaff

Defendant, pro se